IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

Crl.MC.No. 3531 of 2007()

CRMP.2935/2007 of SESSIONS COURT, PALAKKAD
CRIME NO.159/07 OF SHORNUR POLICE STATION

.....

PETITIONER: (ACCUSED IN CUSTODY)

---

1. SARJI RAO SAIT, ALIAS RAMESH,
   S/O.JAGANNATHAN, VITH STREET,
   74/04, MEENAKSHI ILLAM, SIVAGANGA,
   TAMILNADU.

2. AROGYASWAMI, S/O.XAVIER,
   DOOR NO.2/88, KADALADY,
   RAMANATHAPURAM DISTRICT,
   TAMILNADU.

BY ADV. SRI.G.HARIHARAN
SRI.A.SHAJEEL

RESPONDENTS: STATE

---

1. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   SHORNUR POLICE STATION,
   SHORNUR, PALAKKAD DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3531 of 2007

Dated this the 11th day of December, 2007

O R D E R

Petitioners are accused 4 and 5 in a crime registered under Section 395 I.P.C. Very serious allegations have been raised against the petitioners as also the co-accused. The learned Sessions Judge had directed release of the petitioners and the other co-accused on bail subject to conditions. The petitioners claim to be aggrieved by condition No.2, which reads as follows:

> "2. The sureties of each petitioner shall produce solvency certificates issued by the competent Tahsildar within whose jurisdiction he resides. Release order shall be issued by the Magistrate only after verifying the genuineness of the solvency certificates directly with the office of the Tahsildar."

2. The learned counsel for the petitioners submits that the condition imposed is too onerous. The petitioners are unable to get sureties who have the requisite solvency certificates. Consequently the petitioners do now languish in prison even

though they were granted bail as early as on 17.08.07. The learned counsel for the petitioners submits that there may be a direction that the learned Magistrate can accept the sureties if the learned Magistrate is satisfied about their identity, sufficiency and solvency.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the Investigating Officer has come to realise that the petitioners have not furnished the correct address to the Investigating Officer. The prosecution has no objection against the release of the petitioners on bail subject to a modified condition that any surety can be accepted if the identity, sufficiency and solvency of the surety is shown to the satisfaction of the learned Magistrate. But it may also be insisted that the petitioners do reveal their correct address and details to the court before they are released on bail.

4. Having considered all the relevant circumstances, I am satisfied that in supersession of condition No.2, the following conditions can be imposed in respect of the petitioners herein:

i) The sureties to be produced by the petitioners before the learned Magistrate must satisfy the learned Magistrate about

their identity, sufficiency and solvency. The learned Magistrate may consider all the relevant circumstances and materials produced to satisfy himself about the identity, sufficiency and solvency of the said sureties.

ii) The petitioners shall, before they are released from custody, make available to the learned Magistrate materials to show their identity and place of permanent residence. Only if the learned Magistrate satisfies himself that the petitioners have revealed to the learned Magistrate their correct name and address, need the learned Magistrate release the petitioners from custody;

iii) The petitioners shall, after their release, furnish to the learned Magistrate the address of their place of residence within the limits of the Shoranur police station and shall, until the case against them is finally disposed of, keep the Investigating Officer and the learned Magistrate informed of their change of place of residence, if any, from time to time.

5. This petition is allowed to the above extent.

(R.BASANT, JUDGE)

rtr/-